STATE OF CALIFORNIA

CONSUMER POWER AND CONSERVATION FINANCING AUTHORITY

TO: Board of Directors
California Power Authority

FROM: Jeanne Clinton, Deputy Director Conservation and Distributed Generation and
Virginia Rutledge, Financial Advisor

DATE: April 26, 2002

SUBJECT: Approval of Loan Transaction with TrueEnergy, LLC for Financing of Interval ("real time-capable") Meters to Small Businesses

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Summary:

Staff recommends that the Board authorize the transaction described below for the making of a loan in the amount of ten million dollars ($10 million) (gross) (the "Loan"), for a term not to exceed eight (8) years, six (6) months, to TrueEnergy, LLC ("Borrower") and that the Board further authorize the CEO to establish finalized contract terms and capital market placement of the proposed Loan. The purpose of the Loan is to enable TrueEnergy, LLC to undertake a program to install approximately ten thousand (10,000) interval meters and to provide associated on-line customer data and information services, to support peak demand reduction and energy management by small business customers.

On March 15, staff identified TruePricing Inc.(the parent company of TrueEnergy, LLC) as one of four finalist bidders selected from the CPA's solicitation of proposals for financing real time meters. On April 12th, staff presented the Board with a progress report, including draft terms and conditions for a contract with TrueEnergy, LLC (a wholly-owned subsidiary of TruePricing, Inc.). Several issues remained to be worked out, and substantial progress has occurred over the past two weeks. We now ask for the Board's approval of the Loan transaction, subject to final approval of the Loan structure and terms and conditions as established by the CEO and General Counsel.

Project Proposed:

Program Overview

Under the transaction, the CPA will loan the Borrower ten million dollars ($10 million) to implement an advanced metering program ("Program") for California small businesses. Targeting California small businesses with peak electricity demand between 50 and 500 kW (with an emphasis on the 50 to 200 kW range) ("Program Participants"), the Program will finance and manage the installation of up to ten thousand (10,000) interval meters. Additionally, the Program will provide Program Participants with the following:

(i) Access to time-of-use ("TOU") tariff schedules and rate schedule optimization generally, as applicable, and

(ii) Web-enabled secured access to daily interval energy data through information tools provided over the CPA's website or a site co-branded with Borrower.

As a result of enrolling in TOU tariff schedules, receiving the web-based data on energy utilization, and actively managing their energy demand, it is expected that the 10,000 target business participants will reduce their non-coincident peak demand by an estimated 100-200 MWs (from a 10% reduction equivalent to 10-20 kW per business). The businesses enrolled as Program Participants would agree to a loan from Borrower of approximately $1,150 to $1,200 per meter, in order to cover Program costs, including, among other things, hardware purchases, hardware installation, and required integrated services. The Program Participant would pay Borrower a monthly fee for the Program services. These payments are to provide the income stream for Borrower's repayment of the Loan. Program Participants are intended to make initial monthly payments, estimated at fifty to sixty dollars ($50.00 to $60.00), to cover services and amortization of the meter. (Initial payments are estimated at approximately seventy-two (72) months for each participating business, after which time the monthly payments would drop, so that Program Participants would thereafter pay only for the continuing maintenance and business data services.)

The Program sets the stage for a more advanced electricity infrastructure and helps pave the way for future load and price responsive programs. The Program initially targets Southern California Edison ("SCE"), Pacific Gas and Electric ("PG&E"), and San Diego Gas & Electric ("SDG&E") territories, with implementation over a thirty (30) month schedule following the Program enrollment period. The business plan provided by TruePricing Inc. does not require any distribution utility to commit funds to the revenue stream for this project. However, certain acceptances/ approvals must be obtained by those utilities before any activity can begin.

Exact Program Participant loan amounts and customer monthly charges will depend upon, among other factors, the then-current interest rate, issuance costs, and any other business terms required to issue the bond in the financial markets.

Loan Terms

Loan Amount: $10,000,000 of gross proceeds, including estimated issuance fees, subject to positive reception in public market or private placement

Loan Term: Not to exceed eight and one half (8.5) years

Interest Rate and Related Costs: To be determined by financial markets and final terms of the borrowing. Borrower to bear all costs of the CPA in connection with issuance of the Loan, which costs may be paid to CPA from the Loan proceeds.

CPA's Expected Revenue (Issuance Costs and Any Ongoing Loan Administration Fees): The CPA's financial plan contemplates an issuance fee of one half of one percent (0.005) plus direct issuance costs, as well as ongoing administrative expenses.

Contemplated Loan Structure and Disbursement:

- Borrower to deliver to CPA, for approval by CPA's General Counsel, of a third party opinion as to feasibility of Borrower's Program from a regulatory compliance standpoint;
- During initial operational phases, approximately five (5) initial Loan disbursements from bond proceeds of $150,000 per month, draw-down of bond proceeds (initial disbursements limited to $750,000) prior to systems being operational;
- "Per-meter draw-downs" consisting of subsequent Loan disbursements, each made upon approval by CPA of verification of meter installation and evidence that Program Participant contracts (or groupings of the same) have satisfied Program criteria;
- Establishment of $1 million reserve (i.e. holdback) account fully funded by restricted bond proceeds on the date of bond proceeds release;
- CPA approval of minimum credit criteria for Program Participants
- Security interest in Borrower's proprietary rights in contracts with Program Participants, including any and all proceeds received from Program Participants in connection therewith;
- Security interest in Borrower's proprietary rights in databases created, generated, or otherwise derived from Program, including the proceeds from the sale, lease, license, mortgage or pledge of such databases, whether to utility distribution companies, energy service providers, or others;
- Borrower to pledge underlying promissory notes made by Program Participants in favor of Borrower (or affiliate) (such promissory notes estimated to be set in the amount of $1,150.00 to $1,200.00 per Program Participant service agreement) and Borrower to provide CPA a first priority security interest in all proceeds from such promissory notes. Borrower's pledge may be evidenced by a Pledge Agreement and/or Security Agreement and UCC filing, as determined by CPA General Counsel;
- Borrower to provide a first priority security interest to CPA in each advanced meter funded under the Program (the value of such meters estimated at Four Hundred Eighty dollars ($480.00)/meter);
- Borrower shall place the security deposits delivered to Borrower by Program Participants (estimated to be equal to 10% of the commitment per Program Participant) in an impound account. Account to include CPA as account holder (or such other approval mechanism acceptable to CPA's General Counsel) as condition to account withdrawal. Account to be established at an institution chosen by CPA;
- Establishment of a bad debt reserve account (initially funded at $500,000; monthly payments include approximately $3.50 -$5.00 to additionally secure bad debt.) Account

to include CPA as account holder or other approval mechanism acceptable to CPA to as condition to account withdrawal. Account to be established at an institution chosen by CPA;

- Borrower's Loan obligations to be secured by a One Million Five Hundred Thousand ($1.5 million) secured corporate guaranty of UniSource Energy Corporation (NYSE: UNS. UniSourceEnergy Corporation is an independent affiliate of Borrower and of TruePricing Inc. (owning a controlling interest in TruePricing Inc.);
- Borrower to provide a performance bond of not less than Five Hundred Thousand dollars ($500,000.00), rated A+ by A.M. Best, or equivalent surety bond acceptable to CPA, securing performance of Borrower's obligations under the Loan;
- Borrower to provide an opinion of counsel, opining on the due establishment and good standing of Borrower and all guaranteeing or participating entities, due authorization by representatives, validity and binding effect of Loan documents, and such other requirements as may be established by CPA or its counsel.
- Borrower to satisfy all other conditions or obligations as may be established by CPA and/or its counsel, including but not limited to requirements pertaining to bond issuance.

The above provisions represent provisions based upon discussions with Borrower's representatives and discussions with counsel. Staff and Borrower's representatives continue to discuss features of the Program and the proposed Loan. Among those issues still outstanding is level of security in place to redeem bonds if the Program is not deployed as expected (to cover up front costs, issuance costs, and other sunk costs). Final Loan structure will be determined, in large part, by market requirements.

Deployment and Operations

Borrower will manage the acquisition and installation of meters and meter communication lines, including, where appropriate, coordination with investor-owned utilities ("IOUs") and municipal utilities. The Program will install interval meters. The meters will be installed at Program Participant locations by a Meter Service Provider ("MSP") in instances involving IOU customers. For installations involving a municipal utility customer, Borrower will ensure compliance with the host utility's requirements. Upon completion of its financial obligations, the Program Participant will own the physical meter and its associated interval data.

The meters will be connected via modem or other form of communication line to a Metering Data Management Agent (including other authorized data managers, "MDMA"), which will receive 15-minute or other interval usage data collected by the meter in the previous day to the MDMA. Both Borrower and the applicable utility will receive the meter data from the MDMA via the incumbent utility's accepted channels. In some cases, this might result in the customer paying for meter reading by both TrueEnergy and the local distribution utility. Utilities will continue to utilize the data for normal operations including revenue generation. Borrower will provide for the collection and storage of electronic data in an energy data warehouse and provide secure access to interval data for Program Participants through useful web-enabled tools and applications (collectively, "Data Services").

Using proprietary and other energy management software, Borrower will give Program Participants access to web-enabled interfaces that present, among other things, a daily and historical view of their usage profiles. As a result, Program Participants will be in a better position to forecast potential energy cost savings, develop and execute on energy conservation strategies, and manage budgeted energy costs to actual costs.

Other Issues For Board Consideration

Two issues merit the Board's consideration.

- As structured, it is uncertain how the financial market will view whether the borrower presents investment grade credit for this project. The CPA's financial advisor cannot guarantee that this program will be viewed as investment-grade (if rated), or as a reasonable proxy for an investment-grade facility (if placed privately to an institutional investor).

- The CPA cannot guarantee a borrowing rate or issuance costs for this program, or any other program, in advance of presenting the proposed financing facility to the capital market.

Recognizing that this is one of the first customer-side loans presented for Board approval, as well as one of the first to stand entirely on its own credit, staff and our financial advisor invite the Board's comment and guidance on several questions relating to the authorization of this Loan:

1. Does the Board want to establish a minimum requirement of investment grade status for customer-oriented conservation and distributed generation loans?

2. If a proxy for investment grade status were acceptable, what would the characteristics of this be (in terms of debt coverage, credit arrangements, etc.)?

3. Is the Board open to selling these financings in the private placement market, as opposed to a public debt market?

4. If so, successful placement in either market could entail:

    a. Presenting the project financing as-is, to see if the project as configured is a reasonable proxy for investment grade (will take 2-3 weeks).

    b. Going through a rating process (likely to cost approximately $50,000 to $75,000, to be reimbursed by Borrower) to have the financing rated, without any guarantee of the outcome. This step would result in additional documentation costs and require additional lead-time of up to five (5) months

    c. Requiring Borrower to obtain a "Letter of Credit Wrap"from a commercial bank, which staff estimates would cost the Borrower approximately one to two percent (1%-2%) (or more) of the Loan amount. In this regard, it should be noted that commercial banks typically provide such credit enhancements for only two to three (2-3) years at a time, whereas the anticipated Loan Term is 8 to 8 and ½ years..

Action Requested by Board

- Based upon the foregoing, Staff recommends that the Board approve the above described transaction and proposed Loan and authorize the CEO to establish finalized Loan terms and seek to place the Loan in the capital market.

Next Steps

1) Finalize Loan structure and terms and prepare Loan Commitment agreement to reflect such terms and conditions;

2) CPA to obtain investor reaction to whether the Program financing is investment grade or an acceptable proxy. If not, and consistent with Board's policy direction,
    a. Determine need for letter of credit or other credit enhancement
    b. Determine if the financing requires a bond rating

3) Coordinate with bond counsel and General Counsel to develop disclosure, loan documentation and other legal documents;

4) CEO to execute Loan documentation with Borrower;

5) Sell bond in public debt market or via private placement, as appropriate.